

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MIGUEL LOPEZ, :
Plaintiff, :
v. : Case No. 3:08-cv-120-KRG-KAP
JEFFREY BEARD, et al., :
Defendants :

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

After screening the complaint pursuant to 28 U.S.C. § 1915A, the Magistrate Judge filed a Report and Recommendation on August 1, 2008, docket no. 17, recommending that the plaintiff's complaint be dismissed for failure to state a claim.

Plaintiff was notified, pursuant to 28 U.S.C. § 636(b)(1), that he had ten days to file written objections to the Report and Recommendation. Plaintiff filed timely objections, docket no. 18, which are meritless, and an Amended Complaint, docket no. 21, together with motions for the appointment of counsel, docket no. 22, and for expedited consideration, docket no. 23. The Amended Complaint attempts to allege for the first time that the denial of a contact visit on one occasion and the denial of a visit by family members on another occasion were unconstitutional retaliation for plaintiff filing grievances. In the face of the record submitted by plaintiff his newfound claim of retaliation is dismissed as frivolous.

After de novo review of the record of this matter, the recommendation of the Magistrate Judge, and the timely objections thereto, the following order is entered:

AND NOW, this 21st day of August, 2008, it is

ORDERED that the Amended Complaint is dismissed for failure to state a claim. The Report and Recommendation, as supplemented by this Memorandum Order, is adopted as the opinion of the Court. The motion for appointment of counsel, docket no. 22, and motion to expedite, docket no. **24**, are denied. The Clerk shall mark this matter closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice by U.S. Mail to:

Miguel A. Lopez, EY-2341
S.C.I. Somerset
1600 Walters Mill Road
Somerset, PA 15510